

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOSEPH L. COX,
Plaintiff,

v.

Case No. 07C0335

**RICHARD A. SCHNEITER, MATT FRANK,
JAYNE HACBARTH and RON EDWARDS,**
Defendants.

ORDER

On April 10, 2007, Joseph Cox, a Wisconsin state prisoner currently incarcerated at the Wisconsin Secure Program Facility (WSPF), filed a pro se action under 42 U.S.C. § 1983. However, his complaint appeared to challenge his conviction or sentence, which led me to question whether he had intended to file a habeas corpus petition and had used the wrong form. I could not definitively determine this, though, as the complaint was largely unintelligible. As such, on April 12, 2007, I ordered plaintiff to take two actions: (1) inform me as to whether he had intended to file a civil action under § 1983 or a petition for a writ of habeas corpus, and (2) file an amended document (either complaint or petition) clearly stating his grounds for relief. Plaintiff, apparently wanting to cover his bases, filed three petitions for a writ of habeas corpus, under § 2254, § 2241 and § 2255, under the original docket number. Further, plaintiff filed a separate federal petition for habeas corpus that was assigned to my chambers.

Plaintiff clearly intended to file a petition for a writ of habeas corpus. He has filed three petitions under this case number indicating as much. In addition, all of plaintiff's filings in this case relate to the fact of confinement. Each of the filings contain slightly

different stream-of-consciousness claims and demands for relief, but they all seem to seek release. However, I will not recharacterize plaintiff's case as a habeas corpus action because plaintiff has already filed a separate habeas action, and my recharacterization would simply create a second habeas action that would have to be dismissed, and plaintiff has named individuals as defendants who would not be proper defendants to a habeas action. Rather, I will dismiss this action without prejudice. If plaintiff wants to challenge the conditions of his confinement, he may file a new § 1983 action. Otherwise, he may simply focus on the habeas petition pending in Case Number 07-C-350.

Therefore,

IT IS ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that all pending motions are **DENIED AS MOOT**.

Dated at Milwaukee, Wisconsin, this 24 day of May, 2007.

/s_____
LYNN ADELMAN
District Judge